

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: CASE NO. 20-50672
DEBTOR CHAPTER 7
MARK D. SHERMAN JUDGE ALAN M. KOSCHIK

**TRUSTEE'S MOTION FOR
TURNOVER OF FUNDS**

Now comes the Trustee, Kathryn A. Belfance ("Trustee"), and pursuant to 11 U.S.C. §§ 541 and 542, respectfully moves the Court for an Order requiring the Debtor, Mark D. Sherman ("Debtor"), to turnover to the Trustee the sum of \$2,739.83. In support of this Motion, the Trustee states the following:

1. On March 20, 2020, Debtor filed his bankruptcy petition with this Court under Chapter 7 of the United States Bankruptcy Code.
2. Kathryn A. Belfance is the duly appointed Chapter 7 Trustee of the within bankruptcy estate.
3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §157 and §1334 and General Order No. 7 entered in this District on April 4, 2012. Venue is proper pursuant to 28 U.S.C. §1408 and/or §1409. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2).
4. According to 11 U.S.C. §541, property of the estate includes "...all legal or equitable interests of the debtor in property as of the commencement of the case..."¹

¹ 11 U.S.C. §541(a)(1).

5. In March of 2020, Debtor's counsel provided copies of Debtor's 2019 federal and state income tax returns which allowed the Trustee to determine the non-exempt portion of her liquid funds to be as follows:

| | |
|-----------------|---|
| \$ 3,601.00 | (2019 federal tax refund) |
| <u>848.00</u> | (2019 state tax refund) |
| \$ 4,449.00 | |
| <u>115.83</u> | (balance of Huntington Bank account as of the date of filing) |
| \$ 4,564.83 | |
| - 1,325.00 | (less balance available of O.R.C. 2329.66(A)(18)) |
| <u>- 500.00</u> | (less balance available of O.R.C. 2329.66(A)(3)) |
| \$ 2,739.83 | (amount due) |

6. Therefore, the Trustee requests the turnover of \$2,739.83 due from Debtor's non-exempt portion of his 2019 federal and state income tax refunds.

WHEREFORE, Trustee prays the Court for an Order directing and requiring the Debtor, Mark D. Sherman, to turn over the sum of \$2,739.83 to the Trustee, without a hearing, pursuant to Title 11 U.S.C. §102(1)(b)(i), unless a hearing is requested by the debtor or party in interest within **twenty-one (21) days** after notice hereof, and for such other and further relief that the Court deems proper.

Respectfully submitted,

/s/ KATHRYN A. BELFANCE
KATHRYN A. BELFANCE
Registration No. 0018035
Chapter 7 Trustee
50 S. Main Street, 10th Floor
Akron, Ohio 44308
(330) 434-3000 (Phone)
(330) 434-9220 (Fax)
kb@rblp.com

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September 2020, a copy of the foregoing Motion for Turnover was served as follows:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Office of the United States Trustee
Stephen C. Lawson, at lawyerlawson@yahoo.com
Kathryn A. Belfance, Chapter 7 Trustee, at kb@rlblp.com

And by regular U.S. mail, postage prepaid, on:

Mark D. Sherman, Debtor, 8594 Gotham Road, Garrettsville, OH 44231

/s/ KATHRYN A. BELFANCE
KATHRYN A. BELFANCE
Chapter 7 Trustee

NOTICE OF TRUSTEE'S MOTION FOR TURNOVER

The Trustee has filed papers with the Court for turnover of estate property.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to order the turnover of estate property, or if you want the Court to consider your views on the matter, then on or before **twenty (21) days** after service is filed, or such other time fixed by the Federal Rules of Bankruptcy Procedure or statute or as the Court may order, serve a response or request for hearing. If no response or request for hearing is timely filed with the Court and served upon counsel for the movant, the Court may grant the relief requested in the motion without a hearing.

If you do not want the Court to grant the order for turnover without holding a hearing, or if you want the Court to consider your views on the motion, then on or before **October 21, 2020**, you or your attorney must:

File with the Court a written objection or response to:

**Clerk, United States Bankruptcy Court
455 Federal Bldg.
2 South Main St.
Akron, Ohio 44308**

If you mail your Objection to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

You must also mail a copy to:

**Kathryn A. Belfance, Esq.
Roderick Linton Belfance LLP
50 S. Main Street, 10th Floor
Akron, Ohio 44308**

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief without holding a hearing.

Date: September 30, 2020

Signature: /s/ Kathryn A. Belfance
Name: Kathryn A. Belfance, Esq.
Chapter 7 Trustee